

**JUDICIAL REVIEW OF STATE ENGINEER'S
DECISION**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrick Painter

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to the judicial review of a state engineer decision.

Highlighted Provisions:

This bill:

- ▶ grants jurisdiction to the Supreme Court to review a state engineer's order resulting from a formal adjudicative proceeding;
- ▶ requires a person seeking judicial review to:
 - name the state engineer, and in some cases the order recipient, as respondents;
- and
 - give notice to a person who protested during the adjudicative proceeding; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-14, as last amended by Laws of Utah 1987, Chapter 161



Be it enacted by the Legislature of the state of Utah:

Section 1. Section **73-3-14** is amended to read:

73-3-14. Judicial review of state engineer order.

(1) (a) ~~[Any]~~ A person aggrieved by an order of the state engineer may obtain judicial review ~~[by following the procedures and requirements of]~~ in accordance with Title 63, Chapter 46b, Administrative Procedures Act, and this section.

(b) Venue for judicial review of an informal adjudicative ~~[proceedings shall be]~~ proceeding is in the county in which the ~~[stream or]~~ water source~~[-, or some part of it,]~~ or a portion of the water source is located.

(c) The Supreme Court has jurisdiction to review a state engineer's order resulting from a formal adjudicative proceeding.

(2) The state engineer shall be joined as a ~~[defendant]~~ respondent in ~~[all suits]~~ a petition to review ~~[his decisions]~~ the state engineer's decision, but no judgment for costs or expenses of the litigation may be rendered against ~~[him]~~ the state engineer.

(3) A person who files a petition for judicial review as authorized in this section shall:

(a) name the state engineer as a respondent; and

(b) provide written notice in accordance with Subsection (5) to each person who filed a protest in accordance with Section 73-3-7 of:

(i) the filing of the petition for judicial review; and

(ii) the opportunity to intervene in accordance with Utah Rules of Civil Procedure, Rule 24.

(4) In addition to the requirements of Subsection (3), a protestant in the adjudicative proceeding who files a petition for judicial review shall also name the order recipient as a respondent.

(5) The written notice required by this section shall:

(a) be mailed:

(i) within the time provided for by Utah Rules of Civil Procedure, Rule 4(b); and

(ii) to the address on record with the state engineer's office at the time the order is issued; and

(b) include:

(i) a copy of the petition; and

59 (ii) the address of the court in which the petition is pending.
60 (6) If a person who files a petition for judicial review fails to provide notice as required
61 by this section, the court shall dismiss the petition without prejudice upon:
62 (a) the motion of a party;
63 (b) the special appearance of a person who:
64 (i) participated in the adjudicative proceeding; and
65 (ii) is not a party; or
66 (c) the court's own motion.
67 (7) A person who files a petition for judicial review is not required to:
68 (a) notwithstanding Subsection 63-46b-14(3)(b), name a respondent that is not required
69 by this section; and
70 (b) notwithstanding Subsection 63-46b-15(2)(a)(iv), identify all parties to the
71 adjudicative proceeding.

Legislative Review Note
as of 1-31-08 5:07 PM

Office of Legislative Research and General Counsel

H.B. 203 - Judicial Review of State Engineer's Decision

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
